

Mental Retardation Services Grievance And Appeal Process



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I. WHAT IS AN APPEAL?

An appeal is something you can do if you are not getting what you think you should or you don't agree with what you are getting from Mental Retardation Services or your other providers.

An appeal is a way to decide who is right when there is disagreement over services and other types of help which are provided by Mental Retardation Services.

If you don't agree with your caseworker at Mental Retardation Services because you want something, but your caseworker tells you that it is unavailable or that you cannot have it. It could be because you have made complaints about your home or program and nothing is being done. At this point someone needs to decide whether you or the caseworker is right. These rules explain one way that a decision can be made. If your caseworker and the Regional Team Leader cannot help you with the problem, you can appeal to a hearings officer who will decide. An appeal is a way to decide who is right when there is disagreement over services and other types of help provided or paid for by the Department.

Another way to work on the disagreement is to ask your caseworker to find someone from outside the regional office who has had special training in discussing possible ways of solving the problem. This is called mediation and you can ask for **mediation** anytime during the grievance and appeal process. It stops the time limits while you, the mediator and regional staff are trying to reach an agreement. Sometimes provider staff will be at the mediation meeting. If the mediation is not successful, you can continue with your appeal. You can find the phone number for mediation at the end of these rules.

The law provides for appeals. The right to an appeal is found in the Community Consent Decree, and also to the extent authorized by Maine Law, 34-B MRSA Section 1203 (4).

II. WHAT CAN I APPEAL?

Mental Retardation Services will provide an opportunity for a hearing whenever there is a disagreement about anything Mental Retardation Services did or should have done. When you and your caseworker cannot agree on what you want, what you need, or how to run your life, ask for mediation or an appeal. When you appeal this is called filing a grievance.

Below are some examples of things you might want to file a grievance about:

Example:

You think you need to find a job. You tell your caseworker, the caseworker says that there is no job available, no money for a job coach, and that your request for a job can wait.

Example:

You are having trouble with a staff member or a resident at your home. You think you need to get away for awhile. There will be a fight and someone will get hurt. Your caseworker says there is no place to go and you should stick it out, trying harder to stay out of trouble.

Example:

You go to a meeting to plan for your services. You say that you really want a new place to live where you have the choice of one roommate. The group tells you other things are more important, and they won't put this into your plan.

III. HOW DO I APPEAL?

There are a number of easy steps to follow to appeal a decision of Mental Retardation Services. Don't forget you can try to mediate a decision before you appeal. Below is a list of things you must do in order to appeal:

Level I Resolution: ISC (Caseworker) Responsibilities

You, or someone who represents you, should be working with the caseworker to see if your disagreement with the caseworker can be worked out. Your caseworker is supposed to work with you to see if he or she can resolve your complaint. He/she must make a note of the complaint in your file and notify the Office of Advocacy. You or your representative may engage the services of the Office of Advocacy at any time during the grievance process. The address and phone number are written at the end of these rules. If the grievance is resolved, the resolution will be noted in your file. If the grievance cannot be resolved within five (5) workdays the caseworker shall immediately refer the grievance to the Mental Retardation Team Leader. The caseworker shall also notify you, your representative and the Office of Advocacy in writing that the matter has been referred to Level II, the Team Leader.

Level II Resolution: Mental Retardation Team Leader Responsibilities

If the disagreement does not get worked out, then your grievance goes to the Mental Retardation Team Leader(MRTL). The Mental Retardation Team Leader has five(5) work days to decide whether or not he/she can help you. The Mental Retardation Team Leader has the right to speak to you and/or your representative in order to clarify the nature of the problem. The Mental Retardation Team Leader must include your representative in order to clarify the nature of the problem. The Mental Retardation Team Leader must include your representative(s), in all discussions. (The Mental Retardation Team Leader will consult with the Adult Program Manager for Mental Retardation Services about your case.) The Mental Retardation Team Leader must give you a written decision within five (5) work days after getting your Level II grievance. This decision will tell you:

- A. What the Mental Retardation Team Leader understands to be your grievance;
- B. The Mental Retardation Team Leader's decision on how to deal with your grievance; and
- C. An explanation as to why the Mental Retardation Team Leader decided the way he/she did.

IV. YOUR APPEAL

When you get your **Final Decision**, it will tell you at the bottom that you have **ten days** after you receive it to ask for an appeal. If you are unhappy with the decision, you or your representative should ask for an appeal in writing. Writing a letter asking for an appeal is an easy way to "file" an appeal. Your letter should be sent to your caseworker and the Regional Mental Retardation Team Leader. If you want to explain why you don't agree with the **Final Decision**, you should also put this in your letter. That may help people understand the problem.

Level III Resolution: Formal Administrative Hearing

(a) If a person and/or his/her representative decide to Appeal the decision of the Mental Retardation Team Leader or desire Level III Resolution upon the failure of the Mental Retardation Team Leader to comply with procedure, including time deadlines, the appeal must be:

- (i) in writing, and
- (ii) addressed to the caseworker and the Mental Retardation team Leader, and
- (iii) made within ten (10) workdays of receipt of the decision or the failure of the Mental Retardation Team Leader to comply with the procedures.

- (iv) The appeal may or may not explain the basis for the objection to the decision of the Mental Retardation Team Leader.

HOW DOES THE DEPARTMENT PROCESS MY APPEAL?

The Mental Retardation Team Leader shall send your appeal within three (3) workdays to the Mental Retardation Services' Central Office. The address and phone number are at the end of these rules. Central Office shall forward the appeal to the Hearings Unit with three (3) workdays and shall request that a hearing be set within ten (10) workdays of receipt of the request. A hearing is a chance for you to tell a person, who doesn't work for Mental Retardation Services, why you're unhappy. This person is called the hearings officer. The Hearing Officer will contact you, your representative, your caseworker, the Mental Retardation Team Leader and Mental Retardation Services' Central Office about where and when the hearing will take place.

VI. WHERE WILL MY HEARING BE HELD?

Your hearing will be held at a place that is comfortable for you. If it is easy for you to go to your caseworker's office, then the hearing may be held there. If it is hard for you to go to a nearby office, the hearing could be held somewhere near where you live or even at your home. The hearing officer will listen to you to decide what is the best place for a hearing. If you have a problem with the date or time of the hearing, the hearing officer should be able to find a better date and time for the hearing as well.

VII. WHAT YOU CAN EXPECT AT THE HEARING.

These hearings are informal - it is not like going to court! For instance, you can have someone with you to help you with your case, or just help you be comfortable. Here is what a typical hearing might look like:

1. Before the hearing, the hearings officer might contact you, your representative, and Mental Retardation Services to discuss the upcoming hearing. The hearing officer may want to decide where the hearing is going to take place, what kind of evidence people want to present to him/her, and what types of things people want to discuss or argue at the hearing. The hearings officer is free to make decisions about some of these things. If he/she does so, these decisions, or rulings, have to be in writing. Any rulings must be given to you or your representative before the hearing.
2. At the hearing, the hearings officer will make sure everyone is comfortable. The hearing officer will explain what the hearing is about, and will ask anyone if they have any questions about the hearing before the hearing starts. The hearings officer may also swear in witnesses to make sure everyone tells the truth.
3. The hearings officer can decide whether it is better for Mental Retardation Services to go first at the hearing or for you to go first. In most cases Mental Retardation Services will go first. Mental Retardation Services will explain to the hearings officer its side of the story and will usually give documents such as reports and letters to the hearing officer in order to better show its side of the story. Mental Retardation Services may call witnesses to testify about what happened in this case.

When this is going on, you or your representative have the right to object if you believe the information or evidence that Mental Retardation Services is giving to the hearings officer is repetitious, irrelevant, or is not the type of information people normally rely upon when making serious decisions. After Mental Retardation Services has finished presenting its case, it is your turn to present your case. You can explain your point of view and present documents to the hearings officer. You can have witnesses testify to support your case. Remember, Mental Retardation Services can object to some of your evidence as well.

4. After Mental Retardation Services has finished presenting its case, it is your turn to present your case. You can explain your point of view and present documents to the Hearings Officer. You can have witnesses testify to support your case. Remember, Mental Retardation Services can object to some of your evidence as well.

At the end of the hearing the hearings officer will ask if every one had a full chance to present all their

evidence. The hearing officer may also ask if either you or Mental Retardation Services want to make any final arguments about their case. When everyone is done, the hearings officer will make a recommended decision within (3) three workdays of the hearing. The Hearings officer shall furnish the recommended decision to you, your representative, your caseworker, the Mental Retardation Team Leader and, Mental Retardation Services' Central Office.

VIII. WHAT HAPPENS DURING MY APPEAL?

You and your caseworker can keep trying to solve your problem during the appeal, or to solve new problems that come up. If something needs to happen right away, you and your caseworker can try to find a temporary solution. If a temporary solution can't be found, then nothing will change until there is a final decision on your appeal.

IX. DOES THE HEARINGS OFFICER'S RECOMMENDED DECISION(S) ALWAYS DECIDE MY CASE?

No. The Hearing Officer's recommended decision goes to the Commissioner. After the issuance of a recommended decision, the parties may submit to the Commissioner within ten (10) workdays written memoranda, responses and exceptions. The Commissioner shall issue a final decision either adopting, modifying or rejecting the Hearing Officer's recommended decision within thirty (30) workdays of the date of the recommended decision. In the event the final decision of the Commissioner results in the modification or rejection of the recommended decision, the Commissioner shall state in writing the basis for his or her decision. If the Commissioner does not issue a written final decision within thirty days of the date of the recommended decision, the recommended decision of the Hearings Officer shall be deemed the final decision of the Commissioner.

X. WHAT IF I DO NOT LIKE THE DECISION?

You have the right to appeal a final decision. The final decision will tell you (at the bottom of the decision) about your right to appeal the decision to the Maine Superior Court.

XI. Continuing Services and Working Together

Nothing in the rules prevents a grievant (person) and his/her ISC from continuing to work together to solve the problem, to mediate the conflict with a trained mediator, or to solve new problems as they may arise. While a grievance is pending, services the person is receiving shall continue unless safety or health reasons, as determined by the person's physician or planning team, suggest otherwise.

Questions and Answers:

Examples of when a person might ask for mediation or file a complaint.

When something you asked for during your planning process is not part of your action plan.

When you have asked your caseworker over and over for something and they won't listen.

When you have asked your guardian to do something and they don't agree and won't help you talk with your caseworker.

When your living, work or day program situation needs some improvement right away.

When you want to talk about a complaint/grievance or "problem" with more than just your caseworker.

When you have a disagreement with another person and it can't seem to get resolved.

Names and Addresses of the Regional Office of Advocacy

Chief Advocate

Richard Estabrook
Mental Retardation Services
AMHI Complex
60 State house Station
Augusta, ME 04333-0060
287-2205 or 1-800-232-0944
TTY (207) 287-1798

Region 1 (Cumberland, York)

Nancy Thomas &
Arthur Clum
Mental Retardation Services
169 Lancaster Street
Portland, ME 04101
822-0270 or 1-800-269-5208
TTY (207) 822-0272

Region 2A & 2T (2A Kennebec, Somerset, 2T Knox, Lincoln, Sagadahoc, Waldo)

2T—Margaret “Peggy” Rice
Mental Retardation Services
212B New County Road
Thomaston, ME 04861
596-2300 or 1-800-704-8999
TTY (207) 596-2307

Region 2L (Androscoggin, Franklin, Oxford)

C.M. Macgowan	Cheryl Fortier
Mental Retardation Services	Mental Retardation Services
15 Mollison Way	15 Mollison Way
Lewiston, ME 04240	Lewiston, ME 04240
753-9100 or 1-800-866-1803	753-9100 or 1-800-866-1803
TTY (207) 753-9102	TTY (207) 753-9102

Region 3B (Hancock, Penobscot, Piscataquis, Washington)

James Barnes
Mental Retardation Services
176 Hogan Road
Bangor, ME 04401
941-4360 or 1-800-963-9491
TTY (207) 941-4392

Region 3P (Aroostook County)

Margaret Rowland
Mental Retardation Services
25 Lombard Street Extension
Presque Isle, ME 04769
554-2100 or 1-800-767-9857
TTY (207) 764-2000

To Mediate
Call

1-888-497-3500

To Appeal Send To:

Department of Behavioral and
Developmental Services

Jeffrey R. Lee, Esq.
40 State House Station
Augusta, ME 04333-0040
(207) 287-6595
TTY (207) 287-2000
FAX (207) 287-9915

Crisis Prevention & Intervention Services

1-888-568-1112 V/TTY

Unified Toll-Free Crisis Number Statewide
Replace Separate Toll-Free Crisis Numbers Across The State

**Will Connect automatically To The Crisis Service
Provider Covering The Area the Call Is Made From**

Disability Rights Center Statewide Information

Disability Rights Center
P.O. Box 2007
Augusta, Maine 04338-2007

Telephone
1-800-452-1948 (v/tty) For clients and their families

1-207-626-2774 (v/tty)

Facsimile
1-207-621-1419

Names and Addresses of the Regional BDS Adult Protective Services Unit

Adult Protective Unit Mgr.

Jim Spicer
Mental Retardation Services
AMHI Complex
40 State House Station
Augusta, ME 04333-0040
(207) 287-4265—1-800-588-5511— TTY 287-2000

Region 1 (Cumberland, York)

Eugene Markowitz
Mental Retardation Services
175 Lancaster Street
Portland, ME 04101
(207) 822-0172—1-800-269-5208 TTY: 822-0272

Region 2 (Kennebec, Somerset, Knox, Lincoln, Sagadahoc, Waldo, Androscoggin, Franklin & Oxford)

Steven Jones
Mental Retardation Services
141 State House Station
Augusta, ME 04333-0141
(207) 287-8113—1-800-232-0944 TTY: 287-4238

Region 3 (Hancock, Penobscot, Piscataquis, Washington & Aroostook)

Wendy Gilbert
Mental Retardation Services
176 Hogan Road
Bangor, ME 04401
(207) 941-4751— 1-800-963-9491 TTY: (207) 941-4392

**For More Information contact the Mental Retardation Services Regional
Office nearest you.**

Region 1 (Cumberland, York)

Mental Retardation Services
169 Lancaster Street
Portland, ME 04101
TEL: (207) 822-0270 or 1-800-269-5208 TTY: (207) 822-0272

Region 2A (Kennebec, Somerset)

Mental Retardation Services
State House Station #60
Augusta, ME 04333
TEL: (207) 287-2205 or 1-800-232-0944 TTY (207) 287-1798

2T (Knox, Lincoln, Sagadahoc, Waldo)

Mental Retardation Services
212B New County Road
Thomaston, ME 04861
TEL: (207) 596-2300 or 1-800-704-8999 TTY (207) 596-2307

Region 2L (Androscoggin, Franklin, Oxford)

Mental Retardation Services
15 Mollison Way
Lewiston, ME 04240
TEL: (207) 753-9100 or 1-800-866-1803 TTY (207) 753-9102

Region 3B (Hancock, Penobscot, Piscataquis, Washington)

Mental Retardation Services
176 Hogan Road
Bangor, ME 04401
TEL: (207) 941-4360 or 1-800-963-9491 TTY (207) 941-4392

Region 3P (Aroostook County)

Mental Retardation Services
642 Main Street
Presque Isle, ME 04769
TEL: (207) 554-2100 or 1-800-767-9857 TTY (207) 764-2000

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